## THE STAR ROUTES.

[Continued from First Page.]

who says that "It seems that the principle should extend to

ANY HIGH OFFICER OF THE OOVERNMENT."
and upon Bishop, who says "it probably extends
to a high officer of the Government," but who subsequently resistes the case by saying "when he
acts homestly." It probably does. Then the mote
they refer to in Bishop, where Your Honor will
find he is arguing that one Department of the
dovernment cannot everride the discretion vested
in another Department of the Government—we
admit that absolutely and positively to be true.
We do not claim that these men can say to
Mr. Brady: "You made a decision that
the public service should be increased
on a certain route from once to six times a week,
and the expedition increased from three and a
half miles her hour to four or five miles, and that
therefore on the contract which criginally called
for about \$13,000 we will pay \$136,000, when the entire receipts of the route amounted to the Government be a mere bagntoile, that you were mistaken
in the exercise of your discretion." We recognize
the fact that we cannot come here and

ASK AN INFURMATION OR THAT ACCOUNT.

We civilin a right to come here and as an in-ANY HIGH OFFICER OF THE GOVERNMENT,"

ASK AN INFURMATION OF THAT ACCOUNT.

We claim a right to come here and ask an information on the ground that Thomas J. Brady, being entrusted with discretion as an officer of the Government, did not exercise that discretion housesty and in good faith; that he did not exercise it far the purposes of the people and the good of the Government; and that he knew he was not exercising it for the purposes of the people and for the good of the Government; that he was increasing the service and reducing the expedition and reducing the service and reducing the expedition according as the interests of some people were to be promoted by squeezing this man out and putting this man in, by squeezing fonds out of this contractor or another; and before this trial is over we hope to be able to show to the court and to the people of the country where some of this money went, and perhaps about that time they will seek to avail themselves of the principle that members of Congress are exempt from any proceeding. We do not propose in this information to go into

THE QUESTION OF EVIDENCE.

to go into

THE QUESTION OF EVIDENCE.

We simply stand here seeking to argue questions of law, and arguing them to Your Honor, and not to the andlence. We are seeking it with a profound conviction that we are right; that we are seeking to do justice to the people, seeking to do justice to the accused. But if there is to be propounded this doctrine that every head of a Department, every subordinate of a Department, is to be projected on the ground of the exercise of some discretionary powers, then it is time that it was known. But I apprehend Your Honor will hesitate long before you will ennuciate such a view, upon such a motion, or upon any case which comes up in this way. The fact is that that doctrine, so far as the decisions of the courts are concerned, had always been confined to judges, and is has not save exceptionally, been extended to judges of lower courts like justices of the peace, and avere extended to executive officers and the heads of Departments.

AND THE HEASONS WHY
it should be entertained apply in no sense to Mr.
Brady. Mr. Brady was Second Assistant Postmenter-General. It is urged that you should not
take the heads of executive departments away to
answer in the ordinary courts for their misdemeanors, but leave them to be impenched. But
does that apply to Mr. Brady, even if we accept
that dectrine? Does it apply to Mr. Turner
or to Mr. French? How ar down in these
cases are we to go? I confess, Your Honor, the
doctrine seems to me absurd. I do not know
whether it is the more absurd or the more audaclous, but is seems to me to be entirely fair to this
defense, and even atthe risk of being accused as
an "adjective and adverb slinger," I venture

TO APPLY THESE WOLDS TO IT.

defense, and even atthe risk of being secused as an "adjective and adverb slinger," I venture To APPLY THESE WORDS TO IT.

Now, another objection taken against us by these men was that we did not file it until almost three years had expired. I had supposed they would in some way attempt to avail themselves of the statute of limitation, but it seems I am wrong in that respect, and therefore it is not necessary for me to call Your Honor's attention to what is upon my brief upon that subject. I therefore pass to another objection. They claim that the information seems not charge any offense against any law of the United States. Sixth point. Section 640 of the Revised Status declares that if two or more persons conspire, either to commit any offense against the United States, or to defraud the United States in any manner, or for any purpose, and one of more of said parties do any act to EFFECT THE OBJECT OF THE CONSPIRACY, all the parties of the conspiracy commit a crime. Now, it is insisted by the otherselde that it must be such a crime if committed by one individual. In the first place, if that is so, why did not the section of the Revised Statutes stop after saying "if two or more persons conspire to commit any offense against the United States," Why was not that interpretation entirely satisfied by that first claumed be a crime declared by the statutes as a crime against the United States, why was not that interpretation entirely satisfied by that first claumed been consumed by committing a statutory crime, but "in any manner, or for any purpose;" not to defraud the United States in any manner, or for any purpose; by committing a statutory crime, but "in any manner, or here to undertake to reopen a long controversy upon that subject, and we accept the decision; but does it follow, Your Lionor, that because the United States has no common-law jurisdiction in crimes, that therefore the United States has no common-law jurisdiction in crimes, that therefore the United States, and we have a complete to the common la

GET THE COMMON-LAW CASES. OFT THE COIMON-LAW CASES.

Where the statutes have not defined them you must get your definition from the common law. Now, upon that subject I call Your Honor's attention—not upon my brief-to the remarks of Judge Story in the United States against Coolders, in the 1st of Gallison, page 488, in which Chief-Justice Story says:

For lockages, Courses has provided for the season.

States would be left in its exercise to the mere arbitrary pleasure of the judges to an uncontrollable and undefined discretion.

Now, we say here upon this statute that when the law of the United States is a crime it means a conspiracy to defraud the United States is a crime it means a conspiracy to de such an set as at common law is held to be a fraud upon the Government, and that it means that and nothing else. I call Your Honor's attention to the case in Cranch mentioned, which was no case of statutory fraud, but apparently

A CASE OF COMMON-LAW FRAUD.

YOUR HONOR will find in this connection a reference to one or two cases which relate, not directly perhaps, to the question here, but have a bearing upon it. In the case of Rex against Bembridge, 3 Hougloss, 37, and hex against Jones, in 31 State Trials, page 251—Howell's Shate Trials, 18 thepose, but I cannot say. In the case of Rex against Bembridge, an officer of the Government in the Paymenter-General's office was held liable to indictment because he neglected to enter upon the books of the office credits, so that he thus embedding of the office credits, so that he thus embedding that the consider in the office to relain in his hands, longer than he should, Gavernment money, and to receive interest upon it. The case of Rex against Jones was the case of the Commissary-General, a head of a Department, indicted because he had some wrongful interest.

IN CONTRACTS IN HIS DEPARTMENT,

Therefore we say that the objection raised yesterday that the constracts excellent of the statute

IN CONTRACTS IN HIS DEPARTMENT.

Therefore we say that the objection raised yesterday that the conspiracy section of the statute does not apply in the case where the United States is defratided by reason of an act which would be under the laws of the United States a statute crime is wholly indefensible, and that, whether we read the statute by itself or read it in the light of other decisions, it means this: It creates the crime of defranding the United States, and any mode in which the United States, and any mode in which the United States, and any mode in which the United States, and any mode known to the common taw in which the United States is defranded, and the parties who enter into the complicacy to do, and do, any next directed toward it, are hable under the campiracy statute. But then we are told also in that objection, which we only got at in a supplementary manner, after we had insisted on all the Foism helms hables repealed, and that, having been repealed after these acts alleged here were committed, or most of them—I do not know but all of them—that therefore these defendants are to escape punishment, even if guilty. Now, assuming, without necessarily agreeing to it, that ane has accommented to the statute was made an amendment to the statute was made an amendment to the statute was made an amendment to the clause defining the crime, we say that if there is a repea even of the whole section so as to be a re-emeriment of a new one, that then it is saved by the thirteenth section of the Revised Statutes, which commins this prevision: "The repealed of any statute shall not have the effect to release or exclusions are peaked and such statutes, shall so expressly provide, and such statutes shall

UNLESS THE REPRAING ACT
shall so expressly provide, and such statutes shall
be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfolture, or liability. Now, this section has come
to the notice or the Court in two cases which are
cited by my fir ad on the other side, and certainly
in one case, to which I shall call attention directly.
In the 3rd of Dillen, on page 502, United State
vs. Ulrice, a case arising in the district of Missouri,
being I think one of the somewhat fanous which
cases, there were two indictments found against
Ulrice, and they came up on demurrer, and the
Court says (U. S. vs. Urrice, S. Dillon, 333):
"In the first place, it is contemied that the act of
185 having preserted a different punishment for
the offenses charged in these indictments, the sections of the Revised Statutes under which these
indictments have been drawn are repealed, inasmuch as the later act UNLESS THE REPEALING ACT

In answer to this, I would observe that the thirteenth section of the Revised Statutes contains a general provision changing, as I cancelve the rule of the common law that a statute modifying the penishment of a crine prescribed by a prior law operates as a repeal of that law. There is no doubt that that general proposition is sound. Any satistic that varies the definition or the punishment of an offenses committed under it can, by a well-known principle of the law, be punished, unless the later act contains a saving clause. But, as I remarked, inc fleving Statutes changed this rule of common law. They were intended to change which is love questioned, Section 13 provides that the large of any statute changed that the is the later and say statute shall not have the effect to release of any statute shall not have the effect to release of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability CONTAINS NO BAVING CLAUBE.

incurred under such statute unless the repealing act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustdining any proper action or prose-cution for the enforcement of such penalty, for-feiture, or liability. Now,

feiture, or liability.' Now,

THE COUNSEL FOR THE DEFENDANT
argues that neither the word 'penalty,' forfeiture,'
or liability is equivalent to the word 'punishment,'
and, therefore, that the section under which these
indictments are drawn is repealed unless the
penal sanction is comprehended by the term 'penalty,' and this he insists means only that which
can be enforced by civil action or by the term 'penalty,' which relates merely to propert, or by
the term 'liability,' which he says means merely
subject to a civil proceeding. But without attempting to go into the precise technical definition of each of these words, it is my opinion that
they were used by Congress to include all forms of
punishment for crime; and, as alrong evidence of
this view, I found, during the process of the argument, and called the attention of
the counsel to a section which prescribed
fine and imprisonment for two years, when in
Congress, used the words; 'Shall be liable to a
penalty of not less than \$1,000, " and to
imprisonment not more than two years.' Moreover, any tean using common language might
and very properly, that Congress had subjecte, a
party to a hability, and, if asked what liability,
and principles of language, and strely it would
not be understood as denoting a civil proceeding.'
I think, therefore, that this word 'liability' is
intended to cover every form of punishment to
which a man subjects himself by Tolating the
common laws of the country. Besides, as my
BUNOTES a CHIMINAL FROCEEDING."

The other case is the case of the United States THE COUNSEL POR THE DEFENDANT

DENOTES A CRIMINAL PROCEEDING."

benotis a chiminal proceeding."

The other case is the case of the United States against Barr, which is found in the 4th Sawyer, page 254. In that case a motion is made in arrest of Judgment, because it said that the section was so amended by a subsequent law. They say the motion is based upon a well-known rule, citing the case of the United States against Tyner, 11 Wallace: "That there can be no legal conviction nor a valid judgment pronounced upon conviction unless the law creating, the offense be at that time in existence." &c. Now, If I understand the position of my friend, which was not so much elaborated as other portions of his argument, it is this: That section 13 applies when at the time of the repeal an indictment has actually been filed, or proceedings commenced, but does not apply where no proceeding his been taken. Is that the position? Mr. Wilson—Yes.

Mr. Hiss—Now, I call Your Honor's attention to one or two things which I think will dispose of lint very broadly. In the first place, Your Honor will perceive that in neither of these cases is any such limitation of section 13 indicated. They speak of the provision as a salutary one, which will do a great deal of good, &c. II does not appear lere.

I AM BOUND TO SAY AFFIRMATIVELY

that these indictments were not pending at the time of the repeal, nor that that they were pending at the time of the repeal, nor that that they were pending at the time. It does appear that the offense was committed on the sky of January, 1877, and the repeal was on the 16th of January, 1877. Criminal justice in Oregon must be a good deal quicker than in most other places if a man committed that offense on the 8th of January and they got around and had him indicted before the 16th of January, when the statute was repealed. Yet these gentlemen ask you to assume that this was the case. Now, I submit Your Honor should not assume anything of the kind. The statute is in force for the purpose of saving that which ought to be protected, and is applicable to all cases of offenses actually committed prior to the time of the repeal, no matter whether an indictment

and is applicable to all cases of offenses actually committed prior to the time of the repeal, no matter whether an indictment

HAD BEEN FOUND OR NOT.

But, Your Honor, I am fortunately able to relieve my friend entirely upon that subject. In neither one of these cases was an indictment found before the repeal. I have gone to the record and I find this condition of things. In the case of Ulrici the change in the act was made on the 3d day of March, 1875. The midetiment was found in May, 1875. The defendant pleaded guilty in November 1875, and the verdict was finally entered up in May, 1876. Now, the indictment was repealed. In the case in Oregon the law was repealed on the 18th of January, 1877, the indictment was found on the 21st of March, 1877, and the verdict at the end of the term. Now, both of those cases, therefore, stand as authorities before Your Honor in two circuits of the United States that that section 13 does have the salutary effect which the courts say it ought to have, and which we claim it has, because they stand as authority for the 1st ment that the repeal in both cases have been in... before the indictment were found. Then 12... still hold that an indictment would lie for offenses committed before the repeal, because of the saving virtue of section 12 of the Revised Statutes. Now, my authority for the United States, Gentlemen can see it there if they raise any question. That is where I saw them this morning. I think, therefore, so far as that point is concerned, we shall hear nothing more of it. There was yesterday a good deal which we consider in the nature of a demurrer to the indictment, or information, without its being brought.

WITHIN THE STRICT BULES

applicable to a demurrer to an indictment where

in murrer to the indictment, or information, without its being brought.

WITHIN THE STRICT RULES applicable to a demurrer to an indictment where the defendant is compelled to admit the facts; and all of the arguments yesterday, which, as I think, was directed to an attack upon the form or substance of the information, is in the nature of such a demurrer. I have referred to a portion of it is simply because it ought to be answered. At the same time we here repeat the objection which we intimated yesterday, that they are not at liberty in this form of procedure to evade the restraints which a demurrer has imposed upon them, and that they are, therefore, not at liberty to attack the form of the substance in the way that they did. They are, of course, at perfect liberty to attack our right to file any information charging such a crime, and it may be possible that if we should file as an information, which Your Honor, upon simple inspection, would see to be inadequate—an information, for instance, which should omit the name 2 of the conspirators, or anything of that kind, then Your Honor might say "we will not encumber the record with any

IDLE PAPER OF THAT SORT,"

But on a motion of this kind we insist that the question as to whether the paper is technically correct, involving questions on which your decision may be one way or the other is not a matter which should be here now considered; but it comes up properly either on the demurrer to the information, or after trial and conviction, if conviction there should be. It would come up on a motion there should be. It would come up on a motion then which does not come up here, though much of what has been said would be ruled out under after trial and the matter. But I only call attention to that here now as bearing upon the attack which was made upon the aftering upon the attack which was made upon the information on the ground that the conspiracy was not set out in proper form. In the first place no attack was made upon the first count of the information, except the allemation on which I have stready said all I have to say. The allegation that a conspiracy to defraud must be a conspiracy to commit an existing crime. The first count was passed over absolutely without any criticism in any manner, as I recall it.

Mr. Wilson—Allow me to correct the gentleman. The very first criticism I made upon the information was upon the first count.

Mr. Wilson—Let me take the paper and I will see, Mr. Wilson (polning to a paragraph in The REPUBLICAN of yesterduy—That is the one I analyzed and stripped of its verbiage.

Mr. Wilson (polning to a paragraph in The REPUBLICAN of yesterduy—That is the one I analyzed and stripped of its verbiage.

Mr. Wilson (polning to a paragraph in The REPUBLICAN of yesterduy—That is the one I analyzed and stripped of its verbiage.

Mr. Wilson (polning to a paragraph in The REPUBLICAN) is the form that ground.

He do do the paragraph of the information, twill not find a stripped of its verbiage.

Mr. Wilson—Let me take the paper and I will see it in the order to the find a stripped of the verbiage.

Mr. Wilson—Let me take the paper and I will not elay a great provide and the first paper and stripped of the pa

those acts which we say are in fraud of the United
States, had not been made a crime, therefore we
charge to crime,

Mr. Wilson—I dislike to interrupt you.

Mr. Wilson—I the to be interrupted.

Mr. Wilson—I have to be interrupted.

Mr. Wilson—All related will remember that afterward, in commenting upon it, after having stated

what I regarded as the essence of that first count, I

proceeded to road the decision in toleman's case,

it listed ford, in which the court held that charg
ing things to be untawfully and translatently done
did not amount to anything; that they must show

smoothing. You will remember that I particularly

called altention to that ches and read quite a considerable paragraph from it which I do not

Mr. Biles—In point of fact you read from 15

Blatchford, at an earlier stage of the case, and rolating surfrey to another question. You said:

This not sufficient for the pleader to say that a thing

was unlawful or that the set of the party was corrupt,

It is not his judgment as to what constitutes unlawfulness or corruption that is a prevail. The court

must determine matters of that kind.

You brought in 5 if attachford there. But it cer
tainly neveroccurred to me that you were there

speaking of anything except in reference to the

third count. You had passed from the second

count and quoted some authorities at length, and

then proceeded to say "the third count, if possi
be, is worse yet."

Mr. Wilson—After having thus attempted to des
ignate these various counts, then I applied to the

whole of them the case in 15 blatechford.

Mr. Wilso—Of course, whether you did apply

that to them or did not, it is quite certain that I

did not so understand it.

Now I desire to say in reference to the attack upon the first count of the information, that it is based upon some allegation that we are not at liberty to say that the thing is unlawful, because in the case in 15 Blatchford—and I am giad to be reminded of it—a case with which I happen to be exceedingly familiar for reasons which need not be mentioned (the Coleman case)—the question raised was, as the geutleman claims in this portion of his argument, a question of pleading, and was not a question at all in regard to the oath. He claimed in a portion of his argument that the question there was one of probable cause. In that case the affidavit or complaint was read yesterday, and it is not necessary for me to repeat it. There is no statement as to wherein the illegality of

day, and it is not necessary for me to repeat to There is no statement as to wherein the illegality of Issuing on Maring the Creatificate Consists.

In we Peter Coleman, 15 Blatchford, p. 417, it is said:

The use by a person, for the purpose of registering himself as a voter, of a certificate of citizenship of the said:

The use by a person, for the purpose of registering himself as a voter, of a certificate of citizenship of the said:

The other is the coleman of the control of the said of the control of the citizenship of the said of the control of the

Coleman knew the facts so alleged to constitute such unlawfulness, no "probable cause" was set forth in the allidavit.

I AM DIRECTING YOUR HONOR'S ATTENTION to the matter I passed over as showing that that case is good authority on the question of the oath to this information. It is, perhaps, to some extent, an authority on the question of the sufficiency of this information. White my friend yesteryday was residing from the Cruikshank case, I amused myself by taking from my file the entire passage he was residing, and showing it to the District-Attorney, for the purpose of showing that certainly if we had sinned, we had sinned ignorantly. Now, with reference to the question of form of the charge of the conspiracy, I do not desire to go at any great longth into that. I simply call your attention to this: The information here charges in general terms that they did certain things unlawfully, wilfully, fraudulently, and corrupt; and from wicked and corrupt motives, through wicked and corrupt miluences and means, causing and procuring unnecessary, improper, and extravagant compensation to be allowed and paid by the United States of America, and in greater proportion than was allowed by law for additional service in carrying the mains on a certain route. Then wego on and give in detail these facts, showing the amounts and the whole history of the case. It is all stated there in detail, and if that is all the objection that can be urged to this information, then I undertake to say unhesistatingly that the information conforms absolutely to the decision cited in that case. I am referring now solicly to

ring now solely to

THE FIRST COURT OF THE INDICTIONT.

I do not propose to follow them in their criticism upon the second and third counts of the indictment. I shall leave that to others, simply saying that all that is necessary in these cases is that there should be one count of the information that is good, and I claim that that count of the information—I am not throwing any doubt upon the other two, as it simply does not fall to me to pass upon that—but I claim absolutely that that count of the information is in strict accordance with the decision in the Cruikshank case, and in strict accordance with all the precedents upon the construction of indictments for conspiracy. Of course I am aware, Your Houor, that the Cruikshank case laid down a somewhat stricter rule upon the question of allegations in indictments for comparacy than had existed in the law of England, or had existed in the law of some of the Shates; that there had come to be in the law of Kngland more indefiniteness in the form of allegations than the courts of England themselves thought desirable; and yet they considered themselves thought desirable; and set they considered themselves thought desirable; and set they considered themselves thought desirable in those States like New Hampshire, Maline, and I Mink Michigan, and one or two others,

WHICH HAD ABOFTED THE RULE;
and they differed from the lawer rule, which had

be a juror? My recollection is that in this wary statute a man over sixty five years of age cannot be a juror. In he infamous? The idea that you are to infer from the statute giving jurisdiction to the Police Court that a man convicted of complracy to defrand the Gevernment in this bistrict is infamous, when he would not be if convicted in a United States Court in Baitmore, is simply a forced construction, and has no support in reacon or in law. The provisions upon that subject giving jurisdiction, dec. are there for no such purpose, and are not properly

CAPABLE OF ANY SUCH CONSTRUCTION.

I have gone overnow, may it please Your Honor,

CAPABLE OF ANY SUCH CONSTRUCTION.

I have gone over now, may it please Your Honor, all of these cases that I desire to pass upon. I have taken much more time than I had anticipated, and have to thank you for the pattence and attention with which you have listened to me. I desire only to say that I have sought only to argue this as a law case, to be decided upon legal properties and upon legal decisions. I have not knowingly urged upon Your Honor any views which I do not conscientiously believe well founded; I have not sought and do not seek, and do not man to allow myself to seek, in the further progress of this case, to do anything except justice to the Government; Justice to the accused; cattle to the profession to which I belong, and justice to the profession to which I belong, and

Mr. R. G. Ingersoll's Argument.

May it please the Court: I call the attention of Your Honor first to the question of probable cause; and in the examination of that question I not only have the right, but I must necesarily inquire as to what is charged in the information listle, because the court will remember that the charges in the information were made a part of the affidavits, and these affidavits, together with the information, are all the evidence of probable cause in this case. I do not examine the information for the course of the cause in this case. tion for the purpose of demurring to it, or for the purpose of moving to quash either one or all of the counts, but simply for the purpose of showing how much it amounts to as evidence as to proba-ble cause in this case; and I want it distinctly un-derstood that that is the only reason for which I examine it at all.

examine it at all.

HOW MUCH DOES IT PROVE?

What is here charged? And when I say what does it prove. I mean what does it prove against my client? I appear for Mr. Brown, one of the defondants, consequently I shall examine this information for the purpose of inding what is charged against my client. This appears to have been presented to this Court not by the Atterney-General—and I may say that in my judgment the Atterney-General—and I may say that in my judgment the Atterney-General—and I may say that in my judgment the Atterney-General has no standing to the court. seneral has no standing in this court—at least we have not borrowed that from the common law. There is here the District Attorney, who has a statutory duty to perform, and everything that he has a right to do you can find in the statute. This is presented by the District Attorney, in partnership with certain other persons and I somewhat doubt whether the District Attorney has a right to divide the responsibility. When the law places the duty upon him, if he has the right to file this information at all it is seen. information at all it is upon his own judgment,

UPON NO DIVIDED RESPONSIBILITY. We find, then, that it is filed by the District Attor-We find, then, that it is filed by the District Attorney, in partnership with certain others. But, waiving that, what does it say? I direct your attention to the first count. This charges that, in the first place, certain duties devoive upon the Postmaster-General—I admit they are correctly stated—certain others upon the Second Assistant and Third Assistant Postmasters-General, and certain other duties upon ce-tain clerks, all of which, I presume, are in accordance with law. That part I will omit. I read first from the fifth page of this information in the first count; that on the first day of October, in the year of our Lord 1878, at the city of Washington, in the Oisington, in the County of Washington, in the Dis-trict of Columbia, within the Jurisdiction of this court, the said Thomas J. Brady, who

stand what he did is to actually know the circumstances under which he did it.

NOW, THEY MAKE ANOTHER CHARGE

NOW, THEY MAKE ANOTHER CHARGE
that he had no right to do this act—that's, to increase the pay—"urless by reason of such increase
of expedition the employment of additional stock
and carriers was made necessary, and that is case
such employment of additional stock and carriers
was made necessary the said Thomas J. Brudy
had no lawful right to order as additional compensation a sum which should bear a greater propertion to the additional stock and carriers genployed by reason of such increase than the compensation provided for in said original contract."
Good! BUT THERE IS NO STATEMENT

in this first count as to the number of persons or as to the number of horses employed under the original contract; there is no statement in this count as to the number of persons or the number of horses to be employed under the original contract; there is no statement in this count as to the number of persons or the number of horses to be employed under the expedited contract. How, then, is this Court to know? The law does not fix the number of persons or of horses that a man shall consider it a carrying out a contract where he carries the small three times a week that a corrier rate. That has to be fixed by setting a carrier rate. That has to be fixed by setting a carrier rate. That has to be fixed by setting a carrier rate. That has to be fixed by setting the source expedited it is for thin to make an affidavit—first, as to the amount of stock Mrs used and the number of persons then employed, and also as to the number of men and horses that will be required under the expedited contract; and the law provides, as I understand it, that the increase of pay shall be no greater in proportion than the Increase of stock and men. Now, how do we know that that requirement was violated? How do we know that that proportion was disregarded? The pleader must set forth—first, the numbers amployed under the original contract, and, secondly, the numbers that would be sufficient under the expedited contract. That is what he has to set forth, because he has no right simply to say that the due proportion was violated. Alto the increase in the number of trips, the next thing was the

was the

EXPEDITING OF THIS CONTRACT,
and the same charge is made in relation to that,
And now comes the charge that, "in doing and
causing to be done all of said act the said Brady,
for the purpose of procuring them to be carried
out by the officers and elerks of the Post-Office Denariment and the other executive Departments,
falsely and corruptly assumed, represented and
pretended to said officers and clerks that the Postmaster "General had authorized" them. Who were
these "officers and clerks "Mr. French was one
and Mr. Turner was another. Brady, according to
this court, falsely represented to them that this
action had been ordered by the Postmaster-General. Why did he do that? According to this court,
French and Turner had already groupired with
Brady. They had already agreed with Brady and
McDonough and Brown that they would defraud
the Government. Do you presend to say, gestlemen, that after they had entered into that conspiracy it was necessary, in order to get their to
carry it out, to pretend to them, falsely, that Mr.
Key was in it too? Will that do? They are charged
with having conspired. If they did conspire why
was it necessary to tell them afterward that these
orders had been made by the Postmasier-General?
That is contradictory—absurd! Take it, however,
that its true; in what considition does it leave
Messra, Turner and French? According to this
first count.

first count

THEY WERE IMPOSED UPON:

according to this they were made to believe, by the false and corrupt a accessor of Brady, that the Postmaster-General had ordered these times done. In one view it is absurd; in the other it makes them absolutely innocent! This paper proceeds to charge "that on the 25th day of November, 1878, the said Brady, in further pursuance of the consuiracy and further to effect the objects thereof, allowed McDonough to sublet his contract for the mails inpon said route." Good. "That thereafter, on the 11th day of March. 1879, Thomas J. Ready, in further pursuance of said conspiracy, combination, confederation, and agreement, and further, to effect the object thereof, did cause and procurs the Postmaster-General to declare and decide that the said McDonough had failed to perform the service of carrying the mails upon said route." Now, is that possible? Recoilect that we start with Brady, French, Turner, McDonough was the contractor; Brady, the Second Assistant Postmaster-General; Turner and French, officers.

THERE IS NO MENTION OF MR. BROWN THEY WERE IMPOSED UPON; CERE

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DOUBLE SHEET.

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declared his surelies failing contractors, took the contract from him and from them

AND LET IT TO ANOTHER!

That was the result of that "conspiracy." That was the result of Brown's "influence" with Brady! It colminated at that time and in that way. There is no allegation that Brown ever acted for Walsh; there is no allegation that Brown was interested, directly or Indirectly, in the contract given to Walsh; there is not the slightest futuration that he did anything lawful or unlawful, either for or against Walsh. There is no charge that Brown made, or intended to make any corrupt use of money that he received; there is no charge that he was to give one dollar to French or to Turner, not one; not the slightest instination, not a suspicion, that he was to divide this money at all; not a suspicion that he fixed this money to corrupt Brady. That would of itself have been entirely inconsistent with the charge that Brady had already conspired.

WHAT, THEN, DID BROWN DO?

He simply used papers designed to "corrupt the Second" Assistant Postmaster-General." What papers The pissel does not have the kindness rapt an officer of the Government? That is what the pleader says. What does the Court say? Nothing because the Court has been repeated the property and that is one objection to this "information," this is the pissel of the pissel

order that the court may see that they are to fish the legal.

In the same connection I refer to State vs. Keath, 40 Vt., 118; Alderman vs. The Poople, 4 Mich., 414; State vs. Roberts, 24 Mc., 32. In these cases it was beld that it is necessary to state the facts and effectmatanees, so that the Court can judge. For instance:

stance:

In Maire it is an offense for two or more to conspire with the intent unlaw faily or wickedly to commit any crane punishable by imprisonment in the State prices (Scate v. Roberns, but we toink it will hardly be coimed that an indictment would be good under the underto, which charges the object of the compit acy thave been a underfully and wickedly to commit cache.